

HAWAI'I COUNTY BOARD OF ETHICS

MINUTES-REGULAR SESSION

December 10, 2003 ~ 10:00 a.m.
Department of Liquor Control Conference Room
101 Aupuni Street, Suite 230, Hilo, Hawai'i 96720

Present: Leroy Victorine, Chairman (CHAIR)
Sharon Cislo, Vice Chairman (SC)
Reeve Williams (RW)
Kerry Inouye
Bobby Jean Leithead-Todd, Deputy Corporation Counsel (BLT)
Paulette Cainglit, Secretary (PC)

Absent: Joel Gimpel

CHAIR: We have a quorum. Anybody hear from Joel? Is there any...anyone hear how's he doing?

PC: He's been fine, but he's on the mainland...returning on the 18th.

RW: Is he out of the wheelchair yet?

PC: I think he's still in a wheelchair...crutches, I think.

CHAIR: First in order is the approval of the minutes from October 7th.

SC: I make a motion to approve the minutes from the October 7th, 2003 meeting.

KI: I second.

CHAIR: Does that include the Executive Session?

SC: Do you need it separate or do you want me to...

BLT: Why don't we do it separate.

SC: Okay. So I'll do the regular session first.

CHAIR: It's been moved and seconded to approve and file the minutes of October 7th regular session. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Any opposed? It is passed. Executive Session?

SC: I make a motion also to approve the minutes of the Executive Session for October 7th, 2003.

RW: Second.

CHAIR: It's moved and seconded that we approve and file the Executive Session minutes of October 7th. All in favor?

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Any opposed? It is passed. We have a series of Communications, number 42, 43, 44, all the way up to 52.

SC: I make a motion to file Communications numbers 2003-42 through 2003-52...to file them.

RW: We have no...question... we have no motion number 50, do we? We're talking...there's no Communication number 50 do we?

SC: Yes, there is.

KI: I have a 50.

SC: 50 is...about the Boards and Commissions vacancies.

RW: Oh. Okay. I second that motion.

CHAIR: It's moved and seconded that Communications 2003-43 through 52 be accepted and filed.

SC: Did you say 42 or 43?

CHAIR: Forty-two.

SC: Forty-two.

RW: Forty-two.

CHAIR: Forty-two through fifty-two. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Any opposed? It is passed.

BLT: Mr. Chairman?

CHAIR: Yes.

BLT: I just wanted to note for the record that we skipped over Statements from the Public because there are no members of the public, just so that we can reflect that in the minutes.

CHAIR: Okay, that's correct. New Business. Bobby, do you want to do the Sunshine Law for us?

BLT: Yes. I know it's hard to schedule getting people in, and you all have other things in your normal lives to address. So, what I've done is, I've reproduced the material that was given to our attorneys as well as our department heads and members of Boards and Commissions who were able to make the presentation on December 4 that was presented by the Office of Information Practices. So you have two documents in front of you. One is basically an overview done by the Office of Information Practices on the Uniform Information Practices Act basics. So if you turn to that one. What they've done is they've put together, I think this is kind of a nice handy bundle that you can put in your manuals as a handy reference. We've got copies of the most recent versions of Chapter 92F, which is the Uniform Information Practices Act. Added to that is the most recent revisions to that Act. And this is just basically what the public has a right to. And so, things like copies of minutes, copies of items that are on your agenda. So, I don't want to run through the whole thing, because the statutes are here and you can review it at your own leisure. But I think it's a nice thing to add to the other materials that we've already provided you in the past which are the Sunshine Law provisions. But in terms of this, I just want to make a couple of comments that the public has a right to look at basically the materials that you review unless there's some exemption like a privacy exemption, so personnel records, Executive Session. Executive Session, however, once there is no longer a need for the privacy of that Executive Session or to basically keep that information confidential, then the public does have a right to access the minutes of Executive Session. So, there's been a recent opinion regarding investigations, that I want to bring to your attention, and I will be probably providing a copy of that. It pertains to there was a complaint made regarding a deputy attorney general and then, subsequently, there was an investigation conducted by the attorney general's office in to whether this deputy had violated any rules, regulations, laws, _____. Normally, when you do an investigation, you think of that as a confidential, personnel matter. However, because the investigation had to do with a member of the public's complaint and possibly how that attorney general handled the complaint or handled the member of the public's request, the public member's name would have been included in the

investigation. So, and because I'll give you a copy of the opinion, it was a request that had come in from Mr. Russi. So, the Office of Information Practices basically issued an opinion that said because the investigation would have references to Mr. Russi, that under the Uniform Information Practices, Mr. Russi has a right to see that investigation report. They would have to go in and redact or eliminate those portions of it that related to the privacy of the Deputy Attorney General. But, it's kind of...a variation, 'cause initially they were saying, the public doesn't have a right. So, even things that you might normally think of as being covered by privacy, personnel records, investigations. And so that opinion will probably have less of an impact for us than it might for let's say the police commission, if they do an investigation based on the complaint that a member of the public has made. But it's useful to understand those parameters. At the back of this, there are some information about fees, and there's also attached some of the publication of the OIP, as well as some information regarding their web site. And if you haven't visited their web site, you might want to take a look at it. It has copies of all their old opinions that they have issued and they make for some interesting reading because it covers a range of issues and questions as to what the public has a right to access and how you're supposed to also deal with _____ law issues. And so I think it's useful to take a look at their web site. We also have some of their new rules and when these rules apply 'cause we've added these OIP Publications to this material and there is some information like in the June 2002, he's talking about notice to the public and when does the clock tick. So, that's less your concerns than mine and Paulette's, 'cause we're the ones that's responsible for the notice. But it's useful for you to take a look at it and look at the deadlines.

RW: _____.

BLT: Ah huh.

RW: So I see here, it' up on the Opinion Line, I guess that's their newsletter yeah?

BLT: Ah huh.

SC: OpenLine.

BLT: OpenLine.

RW: OpenLine. That one is on page 2 on that OpenLine, which is way back on the June 2002 OpenLine, towards the end... towards the end and go up the third, fourth page from the end.

BLT: Ah huh.

RW: See that. OpenLine 2002 page 2, it says in the second issue, concerns the time or the commission's counsel and so forth, putting time limits on oral testimony.

BLT: Ah huh.

RW: So the Sunshine Law allows boards to provide for reasonable administration of oral testimony by rule. I presume we're governed by that ruling.

BLT: Ah huh.

RW: Under that HRS, so we can actually put a time limit on a...

BLT: As long as you have adopted some kind of rule that you have adopted pursuant to chapter 92. So what you need to do is you look at our Rules...

RW: What Rules is that?

BLT: And our Rules provide for putting a time limit, then you can put time limits.

RW: Ah huh.

BLT: But generally, when you're doing time limits, it's usually kind of a reasonable standard in terms of number of people present. Maybe the amount of business that you have on your schedule and it's not a hard and fast rule. Usually, it's done when you have lots of people who want to testify. But, it can also be imposed when the length of testimony might impede your ability to get business done. So, I'll take a look. I don't...right off hand, I don't remember a specific rule.

SC: Who makes that decision then?

RW: The Chair, I would think huh?

BLT: Well, first you have to have a rule that says you can limit. And then, based on the number of people, and the will of the committee and the Chair, you can impose that time limit. The other thing I should mention in terms of the testimony, is that just like when we talk about statements from the public, you can provide for statements from the public on agenda items at the beginning of your meeting. Or you can give people who have a particular item, an option that they can either testify at the beginning or they can testify when the item comes up. Our agenda normally has it at the beginning...statements, but we have accommodated people, and the Council does the same, but sometimes they want to actually present their testimony at the time that you're considering...like in our case, it's considering a specific petition. You're not required to give people an opportunity to testify twice however. Just once.

SC: Beginning or when on the agenda?

BLT: Another little facet is like, let's say we have something that a lot of the public was interested in. And twenty people came and twenty people signed up, and while those twenty were testifying, another five people came, but they had not signed up initially. If we have not finished taking statements from the public, they still have an opportunity. You have to give them the opportunity. This came up in Honolulu where it was actually...they had a lot of people and they had said people have to be here by 9:00 a.m. And so the people who had signed up by 9:00 a.m. in the morning were still testifying many, many hours later. And somebody came in, and it was like midnight, I think, and he wanted to testify and they said, "No you can't, you weren't here at 9:00." And they made a ruling that basically, he came, the meeting was still on, it didn't matter. He gets to testify.

RW: Who made that ruling?

BLT: It came from Office of Information Practices.

CHAIR: Right on that same page.

BLT: And the AG's office also, is my recollection.

CHAIR: Right on that same page. Three paragraphs down, deals with that issue.

RW: Yeah.

BLT: And so they've had to redo their rules in Honolulu. It didn't come up in the neighbor islands. It came up in terms of the Oahu, City and County, and I think part of it too, was that many of the members of the City Council were formerly State Legislators, and the rules don't apply to the State Legislature. State Legislature...Sunshine Law doesn't apply to them. The notice requirements don't apply to them. They can have twenty-four members of the Senate...it there's one republican and twenty-four democrats. The twenty-four democrats can go into a closed room, shut the door and say whatever they want about the legislation on the table, because when the State Legislature adopted these rules, they made themselves exempt from it. Which has been a sore point with some members of the public. And the same thing...the six day notice Sunshine Law requirement does not apply to the State Legislature. And so then this also becomes... they are trying to give more notice, but they have exempted themselves from the same rules they make everyone else comply with. Because they say they can't get business done. So it's interesting. There's a lot of pressure from members of the public to try and get the State Legislature to adopt some of the same rules for themselves. The problem is that they because they have a short session where they're meeting everyday, that if they have the six-day notice thing, it would probably extend the length of the Legislative Session. And in that case, I guess, they really believe that it would be hard for them. Because it would mean that when they were voting final bills, then they'd

have to wait another week before they could do the final reading of bills, so I don't know whether they'll be any progress. They tried to make it more open by having video and cameras and web sites and stuff, but it's been a sore point for a lot of people.

SC: So for our type of Committee then, if we had the public here and they were making their statement and somebody came in late, they could make their statement and this could just go on and on and on.

BLT: If there were more people that were coming in, you would have to allow those people to testify also.

SC: With no limitations whatsoever.

BLT: You could put time limits on it.

SC: And how do we do that?

BLT: You would need a rule that provided you the ability to put time limits.

RW: Who would probably get that rule.

BLT: You would and then we would have to do a notice that we were going to promulgate that rule. I'll double check the rule, but off-hand I don't remember one on time limits.

SC: 'Cause worst case scenario...you could have a meeting that could go on and on and on...

CHAIR: Well, that's one...

BLT: That's it ... and the record for the County Council is thirteen hours. When it was the irradiation, and that was just testimony. Because in that case, what most of the council members chose not to ask any questions and let people just testify and it...we started at 9:00 in the morning, we finished 10:00 o'clock at night. We took no breaks for lunch.

SC: How can you be effective?

BLT: Well, we weren't doing any decision-making. It was just the public hearing, and anybody that came in got to testify...but it was an issue that many people felt very strongly about. It's unlikely to happen on this Board, because this is generally, it's a Petition where an employee is asking for an opinion, and in most of those cases, it's just the employee who's concerned with the result of that. The other instances that we have is when a member of the public has filed a Petition and usually it's that member of the public or it might be a small group of

people who filed the petition. And so you very seldom have a situation, in my recollection, where you have large numbers of the public show up with this particular Board. You have had large numbers in some of the other Boards and Commissions. Planning Commission, because it's zoning and planning and they frequently will have large numbers of people show up. Sometimes, Police Commission, if there's a hot button issue, if it's an issue that the community is very concerned about, you might have large numbers show up. But, generally County Council, Planning Commission, are the ones that tend to draw the larger crowds.

RW: And the Board of Appeals.

BLT: And the Board of Appeals. But Board of Appeals, it usually just, it's a smaller group usually that shows up at Planning Commission, unless there's something very controversial. If it's shoreline management...if archaeological sites are involved. And so it is really issue driven, and it's those issues that a broader segment of the public gets concerned about. So time limits, meetings going on forever and ever, have not really been an issue for most Boards and Commissions. So, I don't know that it's something that you need to be that concerned about, because I don't recall it having been a problem here. If, in the future you serve on a different Board or Commission, then you might be more concerned about that, because I have seen some of those meetings that the Planning Commission go on all day and into the night. State Land Use Commission, Board of Regents, those where people were concerned about things that they feel really impacts them more personally.

SC: How do we find out if we do have any word that it's written that we...

BLT: I will double check. You should have a copy of the rules. I'll double check the rules here and take a look at what we have in terms of the other Boards and Commissions and what they have in their rules.

RW: And while you're at that, could you also look at how these _____ complaints and complaints that are just driven by individuals again and again.

BLT: Well...I think that you basically deal with things on a case by case basis when they come up and you determine whether the Petitions have merit or not, and you make that determination. I think in the past, the Council and previous Boards have been somewhat reluctant to do anything that would foreclose or make people feel that they couldn't file. So...but there are some provisions in some rules that govern some Boards and especially those that are of a quasi judicial nature like the Board of Ethics is that addresses the issue of what a frivolous complaint might be and how do you deal with a frivolous complaint.

RW: That's what I'm getting at.

BLT: And same thing with the Court system does. And so usually you have to have something in the petition that it has to refer to specific provisions of a code that's been violated. You have to have some personal knowledge of that. Because there have been in the past, and this is many years ago, petitions that would be filed that wouldn't cite what the violation was...wouldn't say what portion of the Ethics Code had been violated...wouldn't be based on any personal knowledge. The person filing the Petition didn't even have any knowledge of any violation. He was wanting the Board to investigate whether there were any violations, but couldn't point to a specific person, couldn't point to a specific incident. And the Board at that time basically would dismiss the Petition because it didn't meet all the criteria that they felt was required. But, getting back to this material here, I can take a look at this in terms of the testimony and our rules, and then I can get back to you when we come back.

CHAIR: Okay. Can I make one other request?

BLT: Okay.

CHAIR: And that is for a proper definition of oral as said in oral testimony. Well, my belief is that oral testimony is what comes out of one's mouth and not a recorded or transcriptions of a _____.

BLT: Well, I think the real issue is what members of the public have a right in terms of presenting information and testifying and sometime, that could include written materials, sometimes that can include requests to present other types of information. My experience in front of the County Council has been that people have come with maps, photographs, video tape, and with some of these things, we like to have advance notice, because especially if it's lengthy, it might be difficult to accommodate them. Some of them require equipment, and so I think it's reasonable if it requires...if they're not going to bring their own equipment in, that they have to ask ahead of time. But I'll take a look at that and let you know. Now, the second handout is basically...they did a presentation, a power point presentation, and this is the copy of different pieces of the power point. So this one, the first set of materials is basically just the law end. You can review that. But what I'd like to do is go over the power point presentation basically and what is Office of Information Practices. It's created by statute. It's administratively attached to the Lieutenant Governor and it's to help agencies and the public to understand what the agencies need to comply with legal requirements and to explain to the public what their rights are for both information and Sunshine and their rights to participate as government process basically. And also, they get requests for opinion on whether...how do you interpret the Sunshine Law...how do you interpret the Freedom of Information Act.

RW: What size agency is it and how is it staffed? Staffed with attorneys?

BLT: It's really...it's fairly small. My recollection is that they just have a handful of employees and it has been problematic for them. Sometimes, because of their small size and numerous requests coming in, they just can't handle the volume. Because any...if you go their website and look at some of the opinions, they're very lengthy, they cover a lot of law, and so it takes quite a bit of time for them to research, to review it, and then issue an opinion and respond. And sometimes, depending on their staffing, they're just not able to keep up...especially if they have numerous requests, and so there have been times when they've just had to say, "we can't get back to you that quickly," or put the minutes in terms...I think at one time they were holding off because they just weren't able to catch up. So they would say, "please no new requests until we catch up with what we already have." And part of that's staffing problem for them and I think they've recently been able to update that and are able to respond to the public again, and to agencies, but there were some problems. And part of it too, was that there were transitions where they were trying to get stuff on to the internet, trying to revamp how they do things. And so periodically, when you're doing that, it becomes very difficult to get opinions and responses to questions in a timely manner. But I think they've 'basically caught up, and they're able...if you folks have questions or inquiries, I think they're now in a situation where they're able to respond.

RW: _____ staff attorney's or _____...

BLT: They have some of the assistance from the attorney general's office. They have new staff on board. And sometimes the AG and Office of Information Practices doesn't necessarily agree on issues. And so, it gets...

RW: Contentious huh?

BLT: Well, they're opinions. They issue an opinion, you try to abide by the opinion because they are responsible for giving you guidance. But in some cases, until something actually ends up in court, and a court determines what the interpretation of the law is, you can have difference agencies, different attorneys. You could have Corporation Counsel saying that this is how they interpret the law. You could have the AG's office saying that this is how they interpret the law. And you could have OIP. It's why things end up in Court sometimes. And then you get a Judge who looks at the legal arguments and determines what the actual interpretation of the law is going to be. 'Cause some issues of Sunshine Law have actually ended up all the way up to the Supreme Court, because some people got a decision from Circuit Court and they didn't like it and they appealed it and in some cases the Supreme Court has overturned the decision. It's kind of a moving target in terms of...you write a rule, but facts from case to case will vary. So how do you apply that rule to a different set of facts. Sometimes it's really open to interpretation (Tape 1 Side B) If you look at page two under the OIP's powers and duties. They...somebody has requested information. And an agency has said, "No, you

don't have a right to that information." They have the right to review that denial and determine whether the agency correctly denied or whether they should have allowed access. They issue opinions which intend to help guide the actions, not only of Boards and Commissions but of all County offices, States offices, agencies. They receive complaints, and when they receive a complaint, they can conduct an inquiry investigate the alleged violations and review the action of the agency. They become an in camera, which basically means that executive session minutes, confidential personnel records, they have the right to access some of those things and view them privately to see if whether there's evidence of violation. So like the general public might not have access to the executive session minutes, but OIP does have access because if they're conducting investigation, if the allegation is that something was discussed in executive session that was improper that shouldn't have been done, then they can't conduct their investigation without being allowed to go and view those documents. But it doesn't release those documents to the public because they hadn't taken a look at it. And based on their investigation, they can recommend discipline. Which is that they can suggest that if somebody's violated something, that they are in violation of the law, that perhaps there is some action that the agency or the government entity has to take in regards to what occurred. They also have the authority to go to court and litigate issues. And they have the authority to adopt rules which would govern how they operated and how to access the information it handles. And their opinions and investigations can apply to all state and county agencies and boards and commissions. And the types of matters that they govern and control extend to all government records. And those records can be in many shapes, forms and sizes. Like if we keep tapes and we keep written minutes, if you decide you're going to video tape and keep a copy of those, those can be government records and public has a right to access. The purpose of having this agency overview this is that the state legislature determined at some point that there was a public interest in disclosure of the workings of government and in government records. So they adopted some State statutes and they basically created this office so that you'd have an agency that dealt with just these specific issues. And the purpose is to provide accurate, relevant, timely and complete government records to the public. And the underlying theory is that government operates better if you have an informed public and that in order to have an informed public, they have to have access to government records. At the same time, they've tried to balance privacy rights of personnel matters. Especially, if it applies to employees. Certain types of records, like when you...if your records, but somebody asks to look at might have your social security number, your home address, financial information about you. Generally, that type of personal private information is not available to the general public, unless it was something that was a required disclosure. Like when I ran for office, I had to file a financial disclosure. And that's available to the public. But you notice that when we review some of the Financial Disclosures, the ones you review are not open to the public. And that's because generally, there's two types of disclosure is required, and some is like public financial disclosure. And the other we've

determined is not available to the public, but Board of Ethics reviews it to see if there's a potential for a conflict of interest in someone serving. Theoretically, the County Council, mayor's office should also have reviewed those issues when someone looked at the Financial Disclosure. You're just an additional agency that can look at them and say, "Hey is this an issue?" And then perhaps direct the question to the individual and then...but it still protects the financial record of the person that's to file the disclosure. And the general exception to complying with the providing documents if...providing the information would somehow impact the privacy rights of an individual or if it would cause an agency to lose or to be denied funding, services or other assistance from government. And that's because like sometimes, when we applied for government money, there are some documents that...like say the Bureau of Justice doesn't want to disclose like how they operate, how they conduct their operations. It's the same thing. The police department if they're doing an under cover operation. They may not want details of that to get out to the public because then it would undermine their ability to conduct their operations. And so there are some exceptions to what the public can have access to. There is a presumption that a government record gets public unless the access is restricted or closed by law. And again, those types of exceptions are the privacy issues and frustration of a legitimate government purpose. Then the other issue is sometimes is over old documents, like if somebody comes in with a request and says they want something and the stuff is from 1905 and it's buried somewhere or you may not even have it. So there are some limitations of what the requests can be and the time line in terms of doing it, so you're not required to prepare a compilation or summary of records unless they're readily retrievable. Whoever...like you might have to make some of those records available for someone to inspect during working hours. Like the County has old records that go back to 1905, so you would have to provide someone the opportunity to go look at it, but you wouldn't say that a staff person had to go to the 1905-1915 records and compile what was in them for them. And you are required to give people reasonable access to facilities to duplicate the records or to make a memorandum or abstract. So you have to be able to provide them a place where they can go and see the records. So you try to accommodate the public. So you might, in terms of County Clerk's office, they have their records available there. For our records, we have them at Corp. Counsel or when there are requests from the other side of the island, we'll send documents to the mayor's office and make them available for the members of the public to view them there. So we try to do reasonable accommodation. And you have the ability to adopt rules or OIP can adopt rules to protect records from theft, _____. The County tries to have backup for some of their information. I think, on the State level they've tried to microfiche some of their records. But also, you're only...what isn't covered right here is that some records you have to keep forever. And some records, after a reasonable period of time, you're allowed to destroy those records. Because otherwise, like every purchase order that the County has, if you kept every piece of paper, after a while, you wouldn't have enough room to store everything. So I think you're seeing people trying to go to

computer classes more and more to try and get away from having to keep everything on paper. And there are categories of records that are available to the public rules, policies, final opinions, orders, purchasing bid results. Names and salaries of government employees, but only the range for civil service and certain bargaining units...there are some records that require a prior written consent from all persons to whom the record pertains. There are other federal and state laws besides county rules on what is required to be disclosed. Sometimes records can be opened by Court order. Sometimes records can be opened by subpoena. So someone's personnel information which would normally be private. In the course of litigation, if someone thinks that the information may be relevant to the issue, they can subpoena and view that information, whether they can actually introduce it in Court or in a case is a separate matter. And they may...even though they're allowed to access it, they may be by law foreclosed from releasing that information to anyone else. So they may be able to subpoena information, but they might be foreclosed from releasing it to any members of the public, because they're allowed to subpoena it for a specific purpose. Subpoenas from legislature for materials. And if you look at page six, there are the exceptions which are the privacy, but normally, privacy only implies to a person who is still alive. 'Cause theoretically once you're dead, you don't have that same privacy interest. So there are some people who try to protect the privacy of basically deceased, because it's going impact the family.

RW: I have a question. Does the State Campaign spending officially operate from the provisions of the UIPA or is it something else that gives them their charter to...

BLT: The campaign spending reports are open to the public. They've adopted rules that provide a lot of that on the internet. And they're governed as a public record. But it's only the reports that people are required to file that are a public record. Reports that a campaign organization internally, as far as I know, is not governed by this. So that they might be subject to subpoena.

RW:

BLT: What's happening in that case is, based on the records that were filed, there were questions about whether people worked for certain companies, and so using their investigation powers, and this is the Campaign Spending Commission, they subpoena bank records, they called people in, they questioned them to find out, "Do you work so and so." They may have asked somebody whether they actually made a contribution. And so that's a slightly separate. The inquiry there was under the privy of the campaign spending commission's right to investigate whether these reports were accurately reflected.

RW: Ah huh.

BLT: The reports themselves are public under Uniform Information Practices Act. But the investigation regarding those are under the authority of Campaign Spending Commission. In some cases, it's actually under authority of the Prosecuting Attorney's office because they're investigating allegations that there were laws that were broken.

RW: Not the UIPA law, per se.

BLT: No, not the UIPA law, per se, but the laws that are being brought into question. They are the campaign spending laws in terms of how much money you're allowed to contribute and how much money of corporations, or businesses allowed to contribute...and so they're looking for information that would indicate that somehow the laws were violated. And so that's a separate issue.

RW: Oh yeah.

BLT: Then the balancing test is basically whether it's an unwarranted invasion of personal privacy. Does the public interest in disclosure outweigh privacy interest? 'Cause there are sometimes when the need for the public to know outweighs someone's privacy interest. And there are some examples here of what are significant privacy interest. And as we mentioned earlier, people's financial disclosure. Courts have basically ruled that people have a significant privacy interest in their medical information and financial information. And in some cases, there are specific laws. Like medical information...there's specific laws that govern the release and some of them...release of some of that information requires the prior written consent of the individual that is...whose medical information is being asked for. And there's significant privacy interest in personnel files except, there have been some opinions that when someone has been suspended or discharged, that there's a public right to some of the information regarding the reasons for that. But that varies from case to case and varies from the type of employee or person that that applies to because there are other issues that come in to play. I think most of the material here is fairly self-explanatory. If you take this and review it and you have further questions about the material, you can let me know and I can either do another presentation or provide new material, but I think at this point I don't really need to, this is self-explanatory. It's pretty well written out, but it covers what was done in this session. And I just think that the caveat is that I think when you're balancing people's right to participate or to testify or present that the balancing is usually in favor of the public participation because of Sunshine. And the balancing is generally in favor of giving information to the public unless privacy medical, financial information is _____.

RW: So all agencies of State government is applicable to the provisions of the Sunshine Law?

BLT: Everybody except the State Legislature.

RW: So Board of Regents for example, there was some bru haha about that.

BLT: Yes.

RW: There were subject to it...

BLT: Yes, in the case of the Board of Regents, the issue was not that they were meeting privately, but that their agenda did not give enough information to adequately inform the public about what they would be discussing at the meeting. Which is why, if you take a look at the Council agendas and the committees, and even Planning Commission. They'll have a short synopsis. They won't just have Bill 59, to amend Chapter 14. They actually have a short synopsis of what the Bill is intending to do. On Re-zoning Bills, they have a short synopsis. In our case, what we usually have is some reference to the date of the letter, who the letter is from, so that someone has noticed that the letter they sent us is going to be on our agenda. We don't necessarily have a synopsis of what is in the letter, but enough information. The communication number, who it's from, so that if a member of the public looks at our agenda, they'd go, "Oh, gee, what is this letter?" And they can come in and say, "Hey, I want to see Communication 2003-43." It's enough information so that they can know what we're doing. And basically come to the meeting.

CHAIR: I have two questions.

BLT: Okay.

CHAIR: From all of these power point copies, I noticed that two of them is so dark that it's difficult to read. One says remedies and the other says extenuating circumstance.

BLT: Yeah. I will try to get that stuff taken care of and put it in a form where it's more readable for you. And then the other thing I did want to mention is we did tape the session. We have that tape, it's available to you if you want to take it home and review it. I haven't looked at it myself yet. I'm going to take it and take a look at it 'cause I had another board that day. And then, just that, if anytime, if any of you have questions, you don't have to do the question in the context of our meeting. You are allowed to call me and ask me over the phone the question that you have. Because I am your attorney, and so you don't have to wait for a meeting. It doesn't have to be put in writing. It can be a phone call, and I can get back to you or possibly, if it's something that if I know it right off the top of my head, I can respond to you right after or during that phone call.

CHAIR: Any questions?

RW: Very good.

CHAIR: Okay. Next issue on the agenda. We need to go into Executive Session.

RW: I move to go into Executive Session.

SC: Second.

CHAIR: It's moved and seconded that we go into Executive Session. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

Moved to Executive Session.

Returned to Regular Session.

CHAIR: We are back in Regular Session. May I take this opportunity to ask Bobby, would you check with Public Works and get a date of hire for Mr. Lauby.

BLT: Okay.

CHAIR: I'll entertain a motion to accept and file the Financial Disclosure of Mr. Lauby.

SC: So moved.

RW: Second.

CHAIR: It's been moved and seconded we accept and file the Financial Disclosure. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Any opposed? It passes. Okay, now we're making the announcement for the next meeting which is scheduled for January 14th, 10:00 o'clock, and the location to be determined. Now, I'll entertain a motion to adjourn for the year.

RW: I move to adjourn...for the year 2003.

SC: Second.

CHAIR: It's moved and seconded we adjourn. All in favor.

SC: Aye.

RW: Aye.
KI: Aye.
CHAIR: We are adjourned.

(Meeting adjourned at 11:00 a.m.)

Respectfully submitted,

Paulette Cainglit
Secretary

Secretary's Note: Blanks indicate inaudible word(s) on audio tape recording.